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## SENATE BILL No. 366

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-12; IC 6-3.1-25.

**Synopsis:** Child care tax incentives for employers. Provides a state tax liability credit for an employer that provides a qualified child care facility at the employer's worksite for use by employees. Provides that the maximum amount of the credit is the lesser of: (1) 15% of the employer's expenses for capital improvements or compensation paid to new child care workers at the qualified facility; or (2) \$20,000. Provides a five year deduction from the assessed value of a qualified facility that has been expanded, renovated, or rehabilitated in an amount equal to the increase in assessed value resulting from the improvements. Provides a five year deduction from the assessed value of a newly constructed qualified facility in an amount equal to 50% of the total assessed value of the new facility.

**Effective:** January 1, 2006.

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January 11, 2005, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 366

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-1.1-12-25.6 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JANUARY 1, 2006]: **Sec. 25.6. (a) As used in this**  
4 **section, "expansion" means additions or improvements to an**  
5 **existing structure that increase the area, size, or capacity of the**  
6 **structure and that are intended to increase the livability, utility,**  
7 **safety, or value of the property under rules adopted by the**  
8 **department of local government finance.**  
9 (b) As used in this section, "property" means a building or  
10 structure that is part of a qualified child care facility (as defined in  
11 IC 6-3.1-25-3). The term does not include land.  
12 (c) As used in this section, the terms "renovation" and  
13 "rehabilitation" include significant repairs, replacements, or  
14 improvements to an existing structure that are intended to increase  
15 the livability, utility, safety, or value of the property under rules  
16 adopted by the department of local government finance.  
17 (d) If the assessed value of a qualified child care facility is



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increased because it has been expanded, renovated, or rehabilitated, the owner is entitled to have deducted from the assessed value of the property an amount equal to one hundred percent (100%) of the increase in assessed value resulting from the expansion, renovation, or rehabilitation. The owner is entitled to this deduction annually for a five (5) year period.

(e) The deduction from assessed value provided by this section is first available for the first assessment date following the expansion, renovation, or rehabilitation and applies to the taxes first due and payable in the following five (5) years. In the sixth year, the county auditor shall add the amount of the deduction to the assessed value of the property. Any general reassessment of real property that occurs within the five (5) year period of the deduction does not affect the amount of the deduction.

SECTION 2. IC 6-1.1-12-25.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 25.7. (a) A property owner that desires to obtain the deduction provided by section 25.6 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b), the application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation for a year is not given to the property owner before April 10 of the year, the application required by this section may be filed not later than thirty (30) days after the date on which the notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The application required by this section must contain the following information:

- (1) The name of the property owner.
- (2) A description of the property for which a deduction is claimed, in sufficient detail to afford identification.
- (3) A copy of the property owner's most recently filed Indiana income tax return, or a certified statement from the department of state revenue indicating that the property that was renovated, rehabilitated, or expanded is a qualified child care facility for purposes of the state tax liability credit

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1 available under IC 6-3.1-25.

2 (4) The assessed value of the improvements on the property  
3 before the renovation, rehabilitation, or expansion.

4 (5) The increase in the assessed value of improvements  
5 resulting from the renovation, rehabilitation, or expansion.

6 (6) The amount of the deduction claimed.

7 (d) A deduction application filed under this section is applicable  
8 for the year in which the addition to assessed value is made and in  
9 the immediately following four (4) years without any additional  
10 application being filed.

11 (e) On verification of the correctness of an application by the  
12 assessor of the township in which the property is located, the  
13 county auditor shall make the deduction.

14 (f) If a deduction applied for under this section is not granted in  
15 full, the county auditor shall notify the applicant by mail. A  
16 taxpayer may appeal a ruling that wholly or partially denies a  
17 deduction claimed under this section in the same manner that  
18 appeals may be taken under IC 6-1.1-15.

19 SECTION 3. IC 6-1.1-12-25.8 IS ADDED TO THE INDIANA  
20 CODE AS A NEW SECTION TO READ AS FOLLOWS  
21 [EFFECTIVE JANUARY 1, 2006]: Sec. 25.8. (a) As used in this  
22 section, "property" means a building or structure that is part of a  
23 qualified child care facility (as defined in IC 6-3.1-25-3). The term  
24 does not include land.

25 (b) The owner of a newly constructed qualified child care  
26 facility is entitled to have deducted from the assessed value of the  
27 property an amount equal to fifty percent (50%) of the assessed  
28 value of the property, as determined on the first assessment date  
29 following the completion of construction. The owner is entitled to  
30 this deduction annually for a five (5) year period.

31 (c) The deduction from assessed value provided by this section  
32 is first available for the first assessment date following the  
33 completion of the construction and applies to the taxes first due  
34 and payable in the following five (5) years. In the sixth year, the  
35 county auditor shall add the amount of the deduction to the  
36 assessed value of the property. Any general reassessment of real  
37 property that occurs within the five (5) year period of the  
38 deduction does not affect the amount of the deduction.

39 (d) A taxpayer may receive either the deduction available under  
40 this section or the deduction available under section 25.6 of this  
41 chapter. If a taxpayer receives the deduction available under this  
42 section, a deduction under section 25.6 of this chapter for

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improvements described in that section may not be claimed during the five (5) year period during which the deduction under this section is received. However, after expiration of the five (5) year period for the deduction under this section, a taxpayer may claim a deduction under section 25.6 of this chapter for any improvements made to the property during the five (5) year period during which the deduction under this section was in effect. The taxpayer may claim the deduction under section 25.6 of this chapter for the number of years remaining in the five (5) year period for a deduction under section 25.6 of this chapter if the taxpayer had claimed a deduction for the improvements under section 25.6 of this chapter at the time the improvements were made.

SECTION 4. IC 6-1.1-12-25.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 25.9. (a)** A property owner who desires to obtain the deduction provided by section 25.8 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b), the application must be filed before May 10 of the year in which the assessed value of the completed qualified child care facility is determined, as described in section 25.8(b) of this chapter.

(b) If notice of the assessed valuation for the year described in subsection (a) is not given to the property owner before April 10 of that year, the application required by this section may be filed not later than thirty (30) days after the date on which the notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The application required by this section must contain the following information:

- (1) The name of the property owner.
- (2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.
- (3) A copy of the property owner's most recently filed Indiana income tax return, or a certified statement from the department of state revenue indicating that the newly constructed property will qualify, upon its operation, as a qualified child care facility for purposes of the state tax

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liability credit available under IC 6-3.1-25.

(4) The assessed value of the completed qualified child care facility, as determined on the assessment date described in section 25.8(b) of this chapter.

(5) The amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the assessed value of the completed qualified child care facility is determined and in the immediately following four (4) years without any additional application being filed.

(e) On verification of the correctness of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction.

(f) If a deduction applied for under this section is not granted in full, the county auditor shall notify the applicant by mail. A taxpayer may appeal a ruling that wholly or partially denies a deduction claimed under this section in the same manner that appeals may be taken under IC 6-1.1-15.

SECTION 5. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

#### **Chapter 25. Employer Child Care Expenditure Credits**

**Sec. 1.** As used in this chapter, "pass through entity" means the following:

- (1) A corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2).
- (2) A partnership.
- (3) A limited liability company.
- (4) A limited liability partnership.

**Sec. 2.** As used in this chapter, "qualified child care expenditure" means any of the following:

- (1) Amounts paid or incurred by a taxpayer to construct, expand, renovate, or rehabilitate depreciable property that:
  - (A) is located in Indiana and used as part of a qualified child care facility of the taxpayer; and
  - (B) does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer.
- (2) Amounts paid by a taxpayer as compensation, including benefits, to new employees hired during the taxable year by any of the following to provide child care services at a qualified child care facility of the taxpayer:
  - (A) The taxpayer, if the taxpayer operates the qualified child care facility.

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(B) An individual or entity that has contracted with the taxpayer to provide child care services at the taxpayer's qualified child care facility.

**Sec. 3.** As used in this chapter, "qualified child care facility" means a facility that meets the following requirements:

(1) The facility is located in Indiana.

(2) The facility has as its principal use the provision of care and supervision for children:

(A) at least fifty (50%) of whom are children of employees of the taxpayer who are provided care and supervision while the employees are working for the taxpayer on the same premises, or at the same site, where the facility is located; or

(B) at least thirty (30%) of whom are children of employees of the taxpayer who are provided care and supervision while the employees are working for the taxpayer at the facility, if the facility is the principal trade or business of the taxpayer.

(3) The facility is operated:

(A) solely by the taxpayer;

(B) by the taxpayer jointly with one (1) or more other individuals or entities under the terms of a contract; or

(C) solely by one (1) or more other individuals or entities under the terms of a contract with the taxpayer.

(4) The facility is licensed by the division of family and children under IC 12-17.2 and meets the requirements of all other applicable laws and rules of the state or of any political subdivision in which the facility is located.

(5) Eligibility for the use of the facility does not discriminate in favor of employees of the taxpayer who are highly compensated employees (as defined in Section 414(q) of the Internal Revenue Code).

**Sec. 4.** As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 6-5.5 (the financial institutions tax); and

(3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

**Sec. 5.** As used in this chapter, "taxpayer" means an individual or entity that has state tax liability.

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1       Sec. 6. Except as provided in section 7 of this chapter, a  
2 taxpayer that makes a qualified child care expenditure during a  
3 taxable year is entitled to a credit against the taxpayer's state tax  
4 liability in an amount equal to the lesser of:

- 5           (1) fifteen percent (15%) of the qualified child care  
6 expenditures of the taxpayer during the taxable year; or  
7           (2) twenty thousand dollars (\$20,000).

8       Sec. 7. (a) A taxpayer's credit for a taxable year may not exceed  
9 taxpayer's state tax liability for that taxable year.

10       (b) If the amount determined under section 6 of this chapter for  
11 a taxpayer for a taxable year exceeds the taxpayer's state tax  
12 liability for that taxable year, the taxpayer may carry the excess  
13 over to the immediately following taxable year. The credit  
14 provided by this chapter may be carried forward and applied to  
15 succeeding taxable years for three (3) taxable years following the  
16 unused credit year.

17       (c) The amount of a credit carryover under this section shall be  
18 reduced to the extent that the carryover is used as a credit during  
19 the immediately preceding taxable year.

20       (d) A taxpayer is not entitled to a carryback or refund of any  
21 unused credit.

22       Sec. 8. (a) If a pass through entity does not have state tax  
23 liability against which the credit granted by this chapter may be  
24 applied, a shareholder, partner, or member of the pass through  
25 entity is entitled to a credit equal to:

- 26           (1) the credit determined for the pass through entity for the  
27 taxable year; multiplied by  
28           (2) the percentage of the pass through entity's distributive  
29 income to which the shareholder, partner, or member is  
30 entitled.

31       (b) The credit provided under subsection (a) is in addition to a  
32 credit to which a shareholder, partner, or member of a pass  
33 through entity is otherwise entitled under this chapter. However,  
34 a pass through entity and a shareholder, partner, or member of the  
35 pass through entity may not claim a credit under this chapter for  
36 the same qualified child care expenditure.

37       Sec. 9. To obtain a credit under this chapter, a taxpayer must  
38 claim the credit in the manner prescribed by the department of  
39 state revenue. The taxpayer shall submit to the department all  
40 information that the department determines is necessary for the  
41 calculation of the credit provided by this chapter.

42       Sec. 10. A credit to which a taxpayer is entitled under this

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chapter shall be applied against the taxpayer's state tax liability in the order of the taxes listed in section 4 of this chapter.

SECTION 6. [EFFECTIVE JANUARY 1, 2006] IC 6-1.1-12-25.6, IC 6-1.1-12-25.7, IC 6-1.1-12-25.8, and IC 6-1.1-12-25.9, all as added by this act, apply to property taxes first due and payable after December 31, 2006.

SECTION 7. [EFFECTIVE JANUARY 1, 2006] IC 6-3.1-25, as added by this act, applies only to taxable years that begin after December 31, 2005.

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